

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Glenn Kubota on May 15, 2008.

The application has been amended as follows:

Claim 15 (currently amended): In a processing unit including nonvolatile memory for storing executable code, the nonvolatile memory comprising a vital region for storing vital code and a region for storing less vital code, a computer program for managing updates to the vital region of the nonvolatile memory with update code, the computer program being stored on a ~~machine readable medium~~ flash memory and executable to perform acts comprising:

issuing an identifier command to the nonvolatile memory;

receiving from the nonvolatile memory an identifier that identifies identifying a memory type of the nonvolatile memory to determine appropriate commands to be sent;

performing a write test by writing test code into multiple blocks in the less vital region in nonvolatile memory and

verifying test status and data of each block to simulate an actual update to the vital region; and performing an actual write of the update code into the vital region in nonvolatile memory, if the write test is successful.

Art Unit: 2115

Claim 25 (currently amended): A host bus adapter (HBA) comprising the processing unit and the computer program stored in the flash memory of claim 15, the HBA for implementing upper layer protocols (ULPs).

2. Claims 1-38 are allowed.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALBERT WANG whose telephone number is (571)272-3669.

The examiner can normally be reached on M-F (9:30 - 6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2115

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Application/Control Number: 10/816,312  
Art Unit: 2115

Page 4